

2001 DRAFTING REQUEST**Senate Amendment (SA-SB168)**Received: **05/09/2001**Received By: **kunkemd**Wanted: **As time permits**

Identical to LRB:

For: **Robert Cowles (608) 266-0484**By/Representing: **John Stolzenberg**This file may be shown to any legislator: **NO**Drafter: **kunkemd**May Contact: **John Stolzenberg**

Addl. Drafters:

Subject: **Public Util. - electric**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Expiration of leased generation contracts

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

<END>

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* **G. The Utility Retains "End of Lease" Rights.**

PTF was silent as to what will happen at the end of the proposed Power Purchase Agreement. Under PTF-2, the utility has the right to continue in control of each plant at the expiration of the lease for that plant. Exercise of that right, if the utility so chooses, will be at fair market value at the time. The terms under which the option may be exercised will be fixed in the lease. This provides investors the expectation of a market return after the term of the initial lease, but allows the utility the choice of retaining the plants for its customers or making other, more favorable arrangements for its customers. The choice made will be subject to a contemporaneous "prudence review" by the PSCW consistent with regulation in effect at the time.

The generation company will have the right to require that a lease extension be used instead of a purchase, if necessary to avoid adverse tax consequences. In addition, market value will be established by a disinterested third-party expert, rather than by either corporate entity or the PSCW. The PSCW will, however, retain the final check on the valuation process by reviewing the utility's determination based on whatever price is established by the disinterested third-party.

H. The Proposed New Plants Will Be Required To Meet All Applicable Public Interest Standards Prior to Construction and Operation.

The determination sought by this Petition will resolve threshold issues and allow Petitioners to begin implementation of the PTF-2 in a timely fashion. However, the proposed new plants will still be subject to extensive regulatory scrutiny and will have to meet several different public interest standards before they are built and operated. In addition, the lease between the generation company and the utility will be an affiliated-interest transaction, and thus it will have to be demonstrated to the PSCW that the terms of the lease are reasonable and consistent with the



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBa0530/1

MDK:.....

Now

SENATE AMENDMENT ,
TO 2001 SENATE BILL 168

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At the locations indicated, amend the bill as follows:

1. Page 3, line 20: after that line insert:

"f. The leased generation contract provides that, upon termination of the leased generation contract, the public utility has the option, by purchase or extension of the lease, to continue to operate the electric generation facilities and that the exercise of that option shall be at fair market value that is established by a disinterested third party and that is subject to review by the commission, and the leased generation contract specifies all of the conditions under which the public utility may exercise that option."

(END)